

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DUWAYNE M. JACKSON,

Plaintiff,

v.

C. PFEIFFER, *et al.*,

Defendants.

Case No. 1:21-cv-00452-JLT-CDB (PC)

FINDINGS AND RECOMMENDATIONS  
TO DISMISS CERTAIN CLAIMS AND  
DEFENDANTS

**FOURTEEN (14) DAY DEADLINE**

Plaintiff Duwayne M. Jackson is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed under 42 U.S.C. § 1983.

On March 13, 2023, the Court screened the complaint and found that it states cognizable claims for Eighth Amendment deliberate indifference against Defendants Pfeiffer and Del-Plair; use of excessive force against Defendants Castro, Rojo, Swanson, and Morales; failure to protect against Defendant Pritchard; medical indifference by Defendant Muhammad; Bane Act violations by Pitchford, Swanson, Rojo, and Morales; and intentional infliction of emotional distress against Castro, Swanson, Rojo and Morales. (Doc. 15.) The Court further found that the complaint fails to state any claim against Defendant Beach; fails to state claims for First Amendment retaliation against Defendants Castro, Rojo, Swanson, and Morales; and fails to state claims for intentional infliction of emotional distress against Defendants Pfeiffer and Del-Plair. (*Id.* at 17.)

The Court granted Plaintiff leave to amend the complaint and ordered Plaintiff to file an

1 amended complaint, a notice to stand on the complaint as screened, or a notice of voluntary dismissal.  
2 (*Id.* at 18.) Plaintiff filed a response electing to proceed on the claims found forego filing a first  
3 amended complaint and.

4 Accordingly, it is RECOMMENDED that the Court DISMISS all claims against  
5 Defendant Beach; the First Amendment retaliation claims against Defendants Castro, Rojo,  
6 Swanson, and Morales; and state claims for intentional infliction of emotional distress against  
7 Defendants Pfeiffer and Del-Plair.

8 These findings and recommendations will be submitted to the United States District Judge  
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). **Within fourteen (14)**  
10 **days** after being served with these findings and recommendations, the parties may file written  
11 objections with the Court. The document should be captioned, “Objections to Magistrate Judge’s  
12 Findings and Recommendations.” The parties are advised that failure to file objections within the  
13 specified time may result in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834,  
14 839 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

15 IT IS SO ORDERED.

16 Dated: **April 4, 2023**

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19 UNITED STATES MAGISTRATE JUDGE  
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